

AN ACT concerning financial institutions.

Be it enacted by the People of the State of Illinois,
represented in the General Assembly:

Section 5. The Illinois Savings and Loan Act of 1985 is amended by changing Sections 1-10.10, 1-10.16, 1-10.19, 1-11, 2-1, 3-8, 4-2, 7-6, 7-7, 7-9, 7-11, and 7-23 as follows:

(205 ILCS 105/1-10.10) (from Ch. 17, par. 3301-10.10)

Sec. 1-10.10. "Insurance corporation": The Federal Savings-and-Loan-Insurance-Corporation, the Federal Deposit Insurance Corporation or such other instrumentality of or corporation chartered by and backed by the full faith and credit of the United States.

(Source: P.A. 86-137.)

(205 ILCS 105/1-10.16) (from Ch. 17, par. 3301-10.16)

Sec. 1-10.16. "Profits": gross income less the aggregate of operating and real estate expenses, losses actually sustained and not charged to reserves under the provision of this Act, interest paid or accrued on borrowings and non-recurring charges as determined by application of generally accepted accounting principles or regulatory accounting principles permitted, recognized or authorized by the Office of Thrift Supervision Federal-Home-Loan-Bank-Board for a federal association and subject to the rules and regulations of the Commissioner.

(Source: P.A. 84-543.)

(205 ILCS 105/1-10.19) (from Ch. 17, par. 3301-10.19)

Sec. 1-10.19. "Total assets": the total value of all loan contracts without deduction for the withdrawal value of any capital accounts of the association held as collateral

for loans, and the total value of all other assets of the association, as determined by the application of generally accepted accounting principles or regulatory accounting principles permitted, recognized or authorized by the Office of Thrift Supervision Federal-Home--Loan--Bank--Board for a federal association and subject to the rules and regulations of the Commissioner.

(Source: P.A. 84-543.)

(205 ILCS 105/1-11) (from Ch. 17, par. 3301-11)

Sec. 1-11. Insurance of withdrawable capital. An association operating under this Act shall obtain and maintain insurance of the association's withdrawable capital by an insurance corporation as defined in this Act in an amount-at-least-equal-to-that-provided-by-the-Federal-Savings-and-Loan-Insurance-Corporation, except that such insurance of accounts is not required in cases where the association is employer-sponsored, does not occupy a ground floor location, does not seek business from the general public by advertising or otherwise and primarily serves the employees of the employer which sponsors the association or the employees of a wholly-owned subsidiary of the employer. In the event that the insurance of accounts is not required by this Section, the Commissioner may adjust the bond requirements for officers, directors and employees of such association, but in no case shall the adjusted bond be required to be in an amount greater than twice that which would otherwise be required.

(Source: P.A. 84-543.)

(205 ILCS 105/2-1) (from Ch. 17, par. 3302-1)

Sec. 2-1. Applicants and initial capital. Any 5 or more adult individuals, residents of this State, may apply for a permit to organize an association under this Act. The

minimum initial capital which an association must have shall be determined by the Commissioner but in no case shall be less than that which would be required in order to obtain insurance of accounts backed by the full faith and credit of the United States government ~~by the Federal Savings and Loan Insurance Corporation.~~

(Source: P.A. 84-543.)

(205 ILCS 105/3-8) (from Ch. 17, par. 3303-8)

Sec. 3-8. Access to books and records; communication with members.

(a) Every member or holder of capital shall have the right to inspect the books and records of the association that pertain to his account. Otherwise, the right of inspection and examination of the books and records shall be limited as provided in this Act, and no other person shall have access to the books and records or shall be entitled to a list of the members.

(b) For the purpose of this Section, the term "financial records" means any original, any copy, or any summary of (i) a document granting signature authority over a deposit or account; (ii) a statement, ledger card, or other record on any deposit or account that shows each transaction in or with respect to that account; (iii) a check, draft, or money order drawn on an association or issued and payable by an association; or (iv) any other item containing information pertaining to any relationship established in the ordinary course of an association's business between an association and its customer, including financial statements or other financial information provided by the member or holder of capital.

(c) This Section does not prohibit:

(1) The preparation, examination, handling, or maintenance of any financial records by any officer,

employee, or agent of an association having custody of those records or the examination of those records by a certified public accountant engaged by the association to perform an independent audit.

(2) The examination of any financial records by, or the furnishing of financial records by an association to, any officer, employee, or agent of the Commissioner of Banks and Real Estate or federal depository institution regulator, ~~Federal Savings and Loan Insurance Corporation and its successors, Federal Deposit Insurance Corporation, Resolution Trust Corporation and its successors, Federal Home Loan Bank Board and its successors, Office of Thrift Supervision, Federal Housing Finance Board, Board of Governors of the Federal Reserve System, any Federal Reserve Bank, or the Office of the Comptroller of the Currency~~ for use solely in the exercise of his duties as an officer, employee, or agent.

(3) The publication of data furnished from financial records relating to members or holders of capital where the data cannot be identified to any particular member, holder of capital, or account.

(4) The making of reports or returns required under Chapter 61 of the Internal Revenue Code of 1986.

(5) Furnishing information concerning the dishonor of any negotiable instrument permitted to be disclosed under the Uniform Commercial Code.

(6) The exchange in the regular course of business of (i) credit information between an association and other associations or financial institutions or commercial enterprises, directly or through a consumer reporting agency or (ii) financial records or information derived from financial records between an association and other associations or financial institutions or commercial enterprises for the purpose of conducting due

diligence pursuant to a purchase or sale involving the association or assets or liabilities of the association.

(7) The furnishing of information to the appropriate law enforcement authorities where the association reasonably believes it has been the victim of a crime.

(8) The furnishing of information pursuant to the Uniform Disposition of Unclaimed Property Act.

(9) The furnishing of information pursuant to the Illinois Income Tax Act and the Illinois Estate and Generation-Skipping Transfer Tax Act.

(10) The furnishing of information pursuant to the federal "Currency and Foreign Transactions Reporting Act", (Title 31, United States Code, Section 1051 et seq.).

(11) The furnishing of information pursuant to any other statute that by its terms or by regulations promulgated thereunder requires the disclosure of financial records other than by subpoena, summons, warrant, or court order.

(12) The exchange of information between an association and an affiliate of the association; as used in this item, "affiliate" includes any company, partnership, or organization that controls, is controlled by, or is under common control with an association.

(13) The furnishing of information in accordance with the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Any association governed by this Act shall enter into an agreement for data exchanges with a State agency provided the State agency pays to the association a reasonable fee not to exceed its actual cost incurred. An association providing information in accordance with this item shall not be liable to any account holder or other person for

any disclosure of information to a State agency, for encumbering or surrendering any assets held by the association in response to a lien or order to withhold and deliver issued by a State agency, or for any other action taken pursuant to this item, including individual or mechanical errors, provided the action does not constitute gross negligence or willful misconduct. An association shall have no obligation to hold, encumber, or surrender assets until it has been served with a subpoena, summons, warrant, court or administrative order, lien, or levy.

(14) The furnishing of information to law enforcement authorities, the Illinois Department on Aging and its regional administrative and provider agencies, the Department of Human Services Office of Inspector General, or public guardians, if the association suspects that a customer who is an elderly or disabled person has been or may become the victim of financial exploitation. For the purposes of this item (14), the term: (i) "elderly person" means a person who is 60 or more years of age, (ii) "disabled person" means a person who has or reasonably appears to the association to have a physical or mental disability that impairs his or her ability to seek or obtain protection from or prevent financial exploitation, and (iii) "financial exploitation" means tortious or illegal use of the assets or resources of an elderly or disabled person, and includes, without limitation, misappropriation of the elderly or disabled person's assets or resources by undue influence, breach of fiduciary relationship, intimidation, fraud, deception, extortion, or the use of assets or resources in any manner contrary to law. An association or person furnishing information pursuant to this item (14) shall be entitled to the same rights and protections as a

person furnishing information under the Elder Abuse and Neglect Act and the Illinois Domestic Violence Act of 1986.

(15) The disclosure of financial records or information as necessary to effect, administer, or enforce a transaction requested or authorized by the member or holder of capital, or in connection with:

(A) servicing or processing a financial product or service requested or authorized by the member or holder of capital;

(B) maintaining or servicing an account of a member or holder of capital with the association; or

(C) a proposed or actual securitization or secondary market sale (including sales of servicing rights) related to a transaction of a member or holder of capital.

Nothing in this item (15), however, authorizes the sale of the financial records or information of a member or holder of capital without the consent of the member or holder of capital.

(16) The disclosure of financial records or information as necessary to protect against or prevent actual or potential fraud, unauthorized transactions, claims, or other liability.

(17) (a) The disclosure of financial records or information related to a private label credit program between a financial institution and a private label party in connection with that private label credit program. Such information is limited to outstanding balance, available credit, payment and performance and account history, product references, purchase information, and information related to the identity of the customer.

(b) (1) For purposes of this paragraph (17) of subsection (c) of Section 3-8, a "private label credit

program" means a credit program involving a financial institution and a private label party that is used by a customer of the financial institution and the private label party primarily for payment for goods or services sold, manufactured, or distributed by a private label party.

(2) For purposes of this paragraph (17) of subsection (c) of Section 3-8, a "private label party" means, with respect to a private label credit program, any of the following: a retailer, a merchant, a manufacturer, a trade group, or any such person's affiliate, subsidiary, member, agent, or service provider.

(d) An association may not disclose to any person, except to the member or holder of capital or his duly authorized agent, any financial records relating to that member or holder of capital of that association unless:

(1) The member or holder of capital has authorized disclosure to the person; or

(2) The financial records are disclosed in response to a lawful subpoena, summons, warrant, or court order that meets the requirements of subsection (e) of this Section.

(e) An association shall disclose financial records under subsection (d) of this Section pursuant to a lawful subpoena, summons, warrant, or court order only after the association mails a copy of the subpoena, summons, warrant, or court order to the person establishing the relationship with the association, if living, and, otherwise, his personal representative, if known, at his last known address by first class mail, postage prepaid, unless the association is specifically prohibited from notifying that person by order of court.

(f) (1) Any officer or employee of an association who

knowingly and willfully furnishes financial records in violation of this Section is guilty of a business offense and, upon conviction, shall be fined not more than \$1,000.

(2) Any person who knowingly and willfully induces or attempts to induce any officer or employee of an association to disclose financial records in violation of this Section is guilty of a business offense and, upon conviction, shall be fined not more than \$1,000.

(g) However, if any member desires to communicate with the other members of the association with reference to any question pending or to be presented at a meeting of the members, the association shall give him upon request a statement of the approximate number of members entitled to vote at the meeting and an estimate of the cost of preparing and mailing the communication. The requesting member then shall submit the communication to the Commissioner who, if he finds it to be appropriate and truthful, shall direct that it be prepared and mailed to the members upon the requesting member's payment or adequate provision for payment of the expenses of preparation and mailing.

(h) An association shall be reimbursed for costs that are necessary and that have been directly incurred in searching for, reproducing, or transporting books, papers, records, or other data of a customer required to be reproduced pursuant to a lawful subpoena, warrant, or court order.

(Source: P.A. 91-929, eff. 12-15-00; 92-483, eff. 8-23-01; 92-543, eff. 6-12-02.)

(205 ILCS 105/4-2) (from Ch. 17, par. 3304-2)

Sec. 4-2. Withdrawable capital. Withdrawable capital accounts shall be:

(a) Withdrawable and subject to enforced retirement as provided in this Article. Nothing in this Act shall prevent

the withdrawal of funds from an association by non-negotiable order;

(b) Entitled to dividends as provided in this Article;

(c) Nonassessable for either debts or losses of the association; and

(d) Issued on such plan or plans of payment therefor or thereon and such series or classes as the by-laws and Commissioner's regulations may provide.

There shall be no penalty, such as loss of interest thereon, on accounts transferred at interest or dividend payment date from passbook types to certificate of deposit within the same facility and not otherwise inconsistent with regulations of the Federal Deposit Insurance Corporation and the Office of Thrift Supervision Savings-and--Loan--Insurance Corporation-or-the-Federal-Home-Loan-Bank-Board.

(Source: P.A. 84-543.)

(205 ILCS 105/7-6) (from Ch. 17, par. 3307-6)

Sec. 7-6. Annual audit. At least once in each year, but in no case more than 12 months after the last audit conducted pursuant to this Section, it shall be mandatory for each association to cause its books and accounts to be audited by a licensed public accountant not connected with such association. The Commissioner may prescribe the scope of such audit within the generally acceptable auditing principles and standards. The report of such audit shall be given to a committee composed of not less than 3 members of the board of directors, none of whom shall be officers, employees or agents of such association, and such committee shall, at the meeting of the board of directors following receipt of the report, present in detail the nature, extent and result of the report. A written summary of such committee's presentation, including a detailed listing of all criticisms made by the accountant conducting the audit and any responses

thereto made by any member of the board of directors or any officer of the association, shall be sent by registered mail to all members of the board of directors not present at the meeting at which the committee made its presentation. A copy of the audit report, including a balance sheet of the association on the date of audit and a statement of income and expenses of the association during the year ending with the date of audit and, if and when such is used, a copy of any written summary prepared for absent members of the board of directors, shall be filed with the Commissioner by the committee receiving the report within 90 days of the audit date; except that the Commissioner may, for good cause shown, extend the filing date for up to 60 additional days. The report filed with the Commissioner shall be certified by the licensed public accountant conducting the audit. If any association required to make an audit shall fail to cause an audit to be made, the Commissioner shall cause the same to be made by a licensed public accountant at the association's expense. In lieu of the audit required by this Section, the Commissioner may accept any audit or portion thereof made exclusively for the Federal Deposit Insurance Corporation and the Office of Thrift Supervision ~~Home-Loan-Bank, the Federal Home-Loan-Bank-Board or the Federal Savings and Loan Insurance Corporation.~~

(Source: P.A. 84-543.)

(205 ILCS 105/7-7) (from Ch. 17, par. 3307-7)

Sec. 7-7. Reports to Commissioner and members; penalty.

(a) Every association operating under this Act shall file with the Commissioner within 90 days following the close of each fiscal year of such association a statement showing its financial condition at the close of the fiscal year and its operations for the year then ended. For good cause shown in writing directed to the Commissioner within the 90 day

period, the Commissioner may authorize up to 60 additional days for filing of the statement of financial condition. Each such statement shall be on forms prescribed by the Commissioner and in conformity with generally accepted accounting principles or regulatory accounting principles permitted, recognized or authorized by the Office of Thrift Supervision Federal--Home--Loan--Bank--Board for a federal association and subject to the rules and regulations of the Commissioner and in accord with the provisions of this Act. Each such statement shall contain such information and be in such form as prescribed by the Commissioner and shall be verified by the secretary and certified by a licensed public accountant appointed by the board of directors or by 2 officers of the association, if a licensed public accountant has been appointed to audit the books and records of the association as provided in the preceding Section of this Act. Every association including its holding company and subsidiaries shall also file such other reports as the Commissioner may require from time to time.

Any association which, after notice from the Commissioner sent by certified or registered mail, wilfully fails to submit within the time prescribed the annual financial report required by this Section is subject to a civil penalty of not more than \$500 for each such failure. Any association which, after notice from the Commissioner sent by certified or registered mail, wilfully fails to submit within the time prescribed any other report required by this Section is subject to a civil penalty of not more than \$100 for each such failure (which penalties shall be cumulative to any other remedies). For the purposes of this Section, the date on which any report required by this Section is postmarked is the date of filing of any such report. The knowing or intentional filing of any such report which is false in any material respect constitutes a felony, and any person

convicted thereof shall be punished by a fine of not more than \$10,000, or imprisonment in the penitentiary for one to 5 years, or both.

(b) An association shall file with the Commissioner a report of change of ownership of permanent reserve shares when such change of ownership results in any person as defined by this Act holding 10% or more, through any one transaction or related series of transactions, of the outstanding permanent reserves shares of the association. Such report shall include owners who hold as beneficiaries or through nominees as well as in their own names. The report shall be made within 5 business days after knowledge of such change has been obtained by the officer authorized or required to make reports to the Commissioner. The Commissioner also may require any such person owning 10% or more of permanent reserve shares to report the beneficiary or beneficiaries for whom he is holding title.

Whenever there is a change in the managing officer of an association or a change amounting to a majority of the directors of an association elected at a regular or special meeting of the members, such change shall likewise be reported within 5 business days to the Commissioner.

The willful failure by any person required to report or disclose change of ownership or control as defined in this Section constitutes a Class 4 felony.

(c) Within 60 days after the date of filing the Statement of Financial Condition with the Commissioner, the association shall mail to each member or make available at each of its offices the annual statement of condition or a condensed form thereof approved by the Commissioner, or shall publish the same at least once, and shall also furnish upon the written or personal request of any member a copy of the complete annual statement of condition. The annual statement of condition, or any condensed form thereof, made available

to members by publication, mailing, or at the association's offices shall include a statement setting forth the association's assets, liabilities, regulatory capital and deposits. In addition, the statement shall include a statement of the association's goals and intentions in regard to investment of the association's funds in order to reasonably inform the member as to the security of his interest. Notification of the availability of the complete annual statement shall be prominently and conspicuously posted in areas of public access at each of the association's branches or offices.

(d) Any change of control or ownership of 25% or more of the permanent reserve shares or stock of (a) any association operating under this Act, or (b) of the shares or stock of a subsidiary of the parent or a subsidiary of any association operating under this Act, must be submitted to the Commissioner for review and approval on forms, conditions and terms to be specified by the Commissioner. The Commissioner may accept in satisfaction of this requirement, submissions required under federal statutes and regulations for changes of control. Any doubt as to whether a change of ownership or other change in the outstanding voting stock of any association is sufficient to result in a change of ownership or control, shall be resolved in favor of reporting the facts to the Commissioner. Compliance with this provision shall not relieve an association, its parent or affiliate from complying with other applicable State or federal statutes or regulations. The Commissioner may disapprove any proposed acquisition if:

(1) The proposed acquisition of control would result in a monopoly or would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the savings and loan business in any part of Illinois;

(2) The effect of the proposed acquisition of control in any section of the State may be substantially to lessen competition or to tend to create a monopoly or the proposed acquisition of control would in any other manner be in restraint of trade, and the anticompetitive effects of the proposed acquisition of control are not clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served;

(3) The financial condition or history of any acquiring person is such as might jeopardize the financial stability of the institution or prejudice the interests of the depositors of the institution;

(4) The competence, experience, or integrity of any acquiring person or any of the proposed management personnel indicates that it would not be in the interest of the depositors of the institution or in the interest of the public to permit such person to control the institution; or

(5) Any acquiring person neglects, fails or refuses to furnish the Commissioner all the information required by the Commissioner.

(Source: P.A. 89-320, eff. 1-1-96; 89-603, eff. 8-2-96.)

(205 ILCS 105/7-9) (from Ch. 17, par. 3307-9)

Sec. 7-9. Disclosure of reports of examinations and confidential supervisory information; limitations.

(a) Any report of examination, visitation, or investigation prepared by the Commissioner under this Act, any report of examination, visitation, or investigation prepared by the state regulatory authority of another state that examines a branch of an Illinois State association in that state, any document or record prepared or obtained in connection with or relating to any examination, visitation,

or investigation, and any record prepared or obtained by the Commissioner to the extent that the record summarizes or contains information derived from any report, document, or record described in this subsection shall be deemed confidential supervisory information. "Confidential supervisory information" shall not include any information or record routinely prepared by an association and maintained in the ordinary course of business or any information or record that is required to be made publicly available pursuant to State or federal law or rule. Confidential supervisory information shall be the property of the Commissioner and shall only be disclosed under the circumstances and for the purposes set forth in this Section.

The Commissioner may disclose confidential supervisory information only under the following circumstances:

(1) The Commissioner may furnish confidential supervisory information to federal and state depository institution regulators, or any official or examiner thereof duly accredited for the purpose. Nothing contained in this Act shall be construed to limit the obligation of any association to comply with the requirements relative to examinations and reports nor to limit in any way the powers of the Commissioner relative to examinations and reports.

(2) The Commissioner may furnish confidential supervisory information to the United States or any agency thereof that to any extent has insured an association's deposits, or any official or examiner thereof duly accredited for the purpose. Nothing contained in this Act shall be construed to limit the obligation relative to examinations and reports of any association in which deposits are to any extent insured by the United States or any agency thereof nor to limit in any way the powers of the Commissioner with reference

to examination and reports of the association.

(3) The Commissioner may furnish confidential supervisory information to the appropriate law enforcement authorities when the Commissioner reasonably believes an association, which the Commissioner has caused to be examined, has been a victim of a crime.

(4) The Commissioner may furnish confidential supervisory information related to an association, which the Commissioner has caused to be examined, to the administrator of the Uniform Disposition of Unclaimed Property Act.

(5) The Commissioner may furnish confidential supervisory information relating to an association, which the Commissioner has caused to be examined, relating to its performance of obligations under the Illinois Income Tax Act and the Illinois Estate and Generation-Skipping Transfer Tax Act to the Illinois Department of Revenue.

(6) The Commissioner may furnish confidential supervisory information relating to an association, which the Commissioner has caused to be examined, under the federal Currency and Foreign Transactions Reporting Act, 31 United States Code, Section 1051 et seq.

(7) The Commissioner may furnish confidential supervisory information to any other agency or entity that the Commissioner determines to have a legitimate regulatory interest.

(8) The Commissioner may furnish confidential supervisory information as otherwise permitted or required by this Act and may furnish confidential supervisory information under any other statute that by its terms or by regulations promulgated thereunder requires the disclosure of financial records other than by subpoena, summons, warrant, or court order.

(9) At the request of the affected association, the

Commissioner may furnish confidential supervisory information relating to the association, which the Commissioner has caused to be examined, in connection with the obtaining of insurance coverage or the pursuit of an insurance claim for or on behalf of the association; provided that, when possible, the Commissioner shall disclose only relevant information while maintaining the confidentiality of financial records not relevant to such insurance coverage or claim and, when appropriate, may delete identifying data relating to any person.

(10) The Commissioner may furnish a copy of a report of any examination performed by the Commissioner of the condition and affairs of any electronic data processing entity to the associations serviced by the electronic data processing entity.

(11) In addition to the foregoing circumstances, the Commissioner may, but is not required to, furnish confidential supervisory information under the same circumstances authorized for the association pursuant to subsection (b) of this Section, except that the Commissioner shall provide confidential supervisory information under circumstances described in paragraph (3) of subsection (b) of this Section only upon the request of the association.

(b) An association or its officers, agents, and employees may disclose confidential supervisory information only under the following circumstances:

(1) to the board of directors of the association, as well as the president, vice-president, cashier, and other officers of the association to whom the board of directors may delegate duties with respect to compliance with recommendations for action, and to the board of directors of an association holding company that owns at

least 80% of the outstanding stock of the association or other financial institution.

(2) to attorneys for the association and to a certified public accountant engaged by the association to perform an independent audit; provided that the attorney or certified public accountant shall not permit the confidential supervisory information to be further disseminated.

(3) to any person who seeks to acquire a controlling interest in, or who seeks to merge with, the association; provided that the person shall agree to be bound to respect the confidentiality of the confidential supervisory information and to not further disseminate the information other than to attorneys, certified public accountants, officers, agents, or employees of that person who likewise shall agree to be bound to respect the confidentiality of the confidential supervisory information and to not further disseminate the information.

(4) to the association's insurance company, if the supervisory information contains information that is otherwise unavailable and is strictly necessary to obtaining insurance coverage or pursuing an insurance claim for or on behalf of the association; provided that, when possible, the association shall disclose only information that is relevant to obtaining insurance coverage or pursuing an insurance claim, while maintaining the confidentiality of financial information pertaining to customers; and provided further that, when appropriate, the association may delete identifying data relating to any person.

The disclosure of confidential supervisory information by an association pursuant to this subsection (b) and the disclosure of information to the Commissioner or other

regulatory agency in connection with any examination, visitation, or investigation shall not constitute a waiver of any legal privilege otherwise available to the association with respect to the information.

(c) (1) Notwithstanding any other provision of this Act or any other law, confidential supervisory information shall be the property of the Commissioner and shall be privileged from disclosure to any person except as provided in this Section. No person in possession of confidential supervisory information may disclose that information for any reason or under any circumstances not specified in this Section without the prior authorization of the Commissioner. Any person upon whom a demand for production of confidential supervisory information is made, whether by subpoena, order, or other judicial or administrative process, must withhold production of the confidential supervisory information and must notify the Commissioner of the demand, at which time the Commissioner is authorized to intervene for the purpose of enforcing the limitations of this Section or seeking the withdrawal or termination of the attempt to compel production of the confidential supervisory information.

(2) Any request for discovery or disclosure of confidential supervisory information, whether by subpoena, order, or other judicial or administrative process, shall be made to the Commissioner, and the Commissioner shall determine within 15 days whether to disclose the information pursuant to procedures and standards that the Commissioner shall establish by rule. If the Commissioner determines that such information will not be disclosed, the Commissioner's decision shall be subject to judicial review under the provisions of the Administrative Review Law, and venue shall be in either Sangamon County or Cook County.

(3) Any court order that compels disclosure of

confidential supervisory information may be immediately appealed by the Commissioner, and the order shall be automatically stayed pending the outcome of the appeal.

(d) If any officer, agent, attorney, or employee of an association knowingly and willfully furnishes confidential supervisory information in violation of this Section, the Commissioner may impose a civil monetary penalty up to \$1,000 for the violation against the officer, agent, attorney, or employee. Information--to--Federal---Authorities.---(a)--The Commissioner--may--give--copies--of--reports--of--his--examinations of--an--association--and--copies--of--the--association's--reports--to him--and--any--other--information--which--he--has--concerning--the association--to--the--Federal--Home--Loan--Bank--(or--its--successor instrumentality)--of--which--the--association--is--a--member--the insurance--corporation--which--has--insured--the--association's deposits--other--regulatory--agencies--of--this--State--regulatory agencies--of--financial--institutions--in--other--states--and--law enforcement--agencies--of--this--State--other--states--or--of--the United--States.

(b)--No--such--action--by--the--Commissioner--shall--relieve--the association--from--compliance--with--any--requirements--of--such Federal--institution--concerning--examinations--or--reports--or limit--the--Commissioner's--powers--to--examine--or--to--require reports--from--the--association.

(c)--No--other--party--shall--be--entitled--to--any--reports--of examination--reports--to--the--Commissioner--or--any--other information--concerning--the--association--derived--from--such reports.

(Source: P.A. 86-137.)

(205 ILCS 105/7-11) (from Ch. 17, par. 3307-11)

Sec. 7-11. Commissioner's authority to take custody and appoint a conservator. The Commissioner in his discretion may take custody of, and appoint a conservator for, the property,

liabilities, books, records, business and assets of every kind and character of any association, trust or association in liquidation, for any of the purposes hereinafter enumerated, if it appears from reports made to the Commissioner, or from examination made by or on behalf of the Commissioner:

(a) That the directors, officers, trustees or liquidators have neglected, failed or refused to take any action which the Commissioner may deem necessary for the protection of the association or trust or have impeded or obstructed an examination; or

(b) That the withdrawable capital of the association is impaired to the extent that the realizable value of its assets is insufficient to pay in full its creditors and holders of its withdrawable capital; or that its permanent reserve capital is impaired; or

(c) That the association is unable to continue operation; or

(d) That the business of the association, trust or association in liquidation is being conducted in a fraudulent, illegal or unsafe manner; or

(e) That the officers, employees, trustees or liquidators have continued to assume duties or perform acts without giving bond as required by the provisions of this Act.

Unless the Commissioner finds that an emergency exists which may result in loss to members or creditors and requires that he take custody immediately, he first shall give written notice to the directors, trustees or liquidators specifying the conditions criticized and state a reasonable time within which correction may be made. If however, an association whose accounts are insured by the Federal-Savings-and-Loan insurance corporation is impaired within the meaning of paragraph (b) above, or any other condition exists which

would give the Commissioner authority to take custody of an insured institution, the action of the Commissioner can be withheld provided that the Commissioner determines from reports made to him by the association, and such other examinations as may be deemed necessary, that the association has sufficient liquid assets and has adopted and implemented an operating plan satisfactory to the Commissioner. In such case the Commissioner may defer a custody action pending a satisfactory resolution of the impairment as suggested by either the association or the Federal--Savings--and--Loan insurance corporation.

If any condition exists that would give the Commissioner authority to take custody of an association, the action of the Commissioner may be withheld pending a satisfactory resolution of the condition as suggested by the insurance corporation provided the association has sufficient liquidity and has adopted and implemented an operating plan the Commissioner considers prudent.

No action or inaction of the Commissioner taken pursuant to this Article shall cause the Commissioner to be personally liable for such action or inaction unless the Commissioner's action or inaction is found to be in violation of a criminal statute. The Commissioner shall promulgate rules and regulations to govern the determination of a need for a conservator and the selection, appointment and conduct of a conservatorship, including allocation of payment and costs.

(Source: P.A. 91-97, eff. 7-9-99.)

(205 ILCS 105/7-23) (from Ch. 17, par. 3307-23)

Sec. 7-23. Proceedings on objections to Commissioner's action. Any person aggrieved by any decision, order, or action of the Commissioner, except one under paragraph (b) of Section 1-9, Section 2-3, or paragraph (j) of Section 3-4, or Section 7-9 of this Act, or under Section 1006(b), or Section

3005, or Section 9012 of the Savings Bank Act, or involving a change of location of an office or the establishment of an additional office under the Savings Bank Act, may receive a hearing as provided in Sections 7-24 through 7-27 of this Act.

(Source: P.A. 89-508, eff. 7-3-96.)

Section 10. The Savings Bank Act is amended by changing Sections 4013 and 9012 as follows:

(205 ILCS 205/4013) (from Ch. 17, par. 7304-13)

Sec. 4013. Access to books and records; communication with members and shareholders.

(a) Every member or shareholder shall have the right to inspect books and records of the savings bank that pertain to his accounts. Otherwise, the right of inspection and examination of the books and records shall be limited as provided in this Act, and no other person shall have access to the books and records nor shall be entitled to a list of the members or shareholders.

(b) For the purpose of this Section, the term "financial records" means any original, any copy, or any summary of (1) a document granting signature authority over a deposit or account; (2) a statement, ledger card, or other record on any deposit or account that shows each transaction in or with respect to that account; (3) a check, draft, or money order drawn on a savings bank or issued and payable by a savings bank; or (4) any other item containing information pertaining to any relationship established in the ordinary course of a savings bank's business between a savings bank and its customer, including financial statements or other financial information provided by the member or shareholder.

(c) This Section does not prohibit:

(1) The preparation examination, handling, or

maintenance of any financial records by any officer, employee, or agent of a savings bank having custody of records or examination of records by a certified public accountant engaged by the savings bank to perform an independent audit.

(2) The examination of any financial records by, or the furnishing of financial records by a savings bank to, any officer, employee, or agent of the Commissioner of Banks and Real Estate or the federal depository institution regulator ~~Federal---Deposit---Insurance Corporation~~ for use solely in the exercise of his duties as an officer, employee, or agent.

(3) The publication of data furnished from financial records relating to members or holders of capital where the data cannot be identified to any particular member, shareholder, or account.

(4) The making of reports or returns required under Chapter 61 of the Internal Revenue Code of 1986.

(5) Furnishing information concerning the dishonor of any negotiable instrument permitted to be disclosed under the Uniform Commercial Code.

(6) The exchange in the regular course of business of (i) credit information between a savings bank and other savings banks or financial institutions or commercial enterprises, directly or through a consumer reporting agency or (ii) financial records or information derived from financial records between a savings bank and other savings banks or financial institutions or commercial enterprises for the purpose of conducting due diligence pursuant to a purchase or sale involving the savings bank or assets or liabilities of the savings bank.

(7) The furnishing of information to the appropriate law enforcement authorities where the savings

bank reasonably believes it has been the victim of a crime.

(8) The furnishing of information pursuant to the Uniform Disposition of Unclaimed Property Act.

(9) The furnishing of information pursuant to the Illinois Income Tax Act and the Illinois Estate and Generation-Skipping Transfer Tax Act.

(10) The furnishing of information pursuant to the federal "Currency and Foreign Transactions Reporting Act", (Title 31, United States Code, Section 1051 et seq.).

(11) The furnishing of information pursuant to any other statute which by its terms or by regulations promulgated thereunder requires the disclosure of financial records other than by subpoena, summons, warrant, or court order.

(12) The furnishing of information in accordance with the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Any savings bank governed by this Act shall enter into an agreement for data exchanges with a State agency provided the State agency pays to the savings bank a reasonable fee not to exceed its actual cost incurred. A savings bank providing information in accordance with this item shall not be liable to any account holder or other person for any disclosure of information to a State agency, for encumbering or surrendering any assets held by the savings bank in response to a lien or order to withhold and deliver issued by a State agency, or for any other action taken pursuant to this item, including individual or mechanical errors, provided the action does not constitute gross negligence or willful misconduct. A savings bank shall have no obligation to hold, encumber, or surrender assets until it has been served with a

subpoena, summons, warrant, court or administrative order, lien, or levy.

(13) The furnishing of information to law enforcement authorities, the Illinois Department on Aging and its regional administrative and provider agencies, the Department of Human Services Office of Inspector General, or public guardians, if the savings bank suspects that a customer who is an elderly or disabled person has been or may become the victim of financial exploitation. For the purposes of this item (13), the term: (i) "elderly person" means a person who is 60 or more years of age, (ii) "disabled person" means a person who has or reasonably appears to the savings bank to have a physical or mental disability that impairs his or her ability to seek or obtain protection from or prevent financial exploitation, and (iii) "financial exploitation" means tortious or illegal use of the assets or resources of an elderly or disabled person, and includes, without limitation, misappropriation of the elderly or disabled person's assets or resources by undue influence, breach of fiduciary relationship, intimidation, fraud, deception, extortion, or the use of assets or resources in any manner contrary to law. A savings bank or person furnishing information pursuant to this item (13) shall be entitled to the same rights and protections as a person furnishing information under the Elder Abuse and Neglect Act and the Illinois Domestic Violence Act of 1986.

(14) The disclosure of financial records or information as necessary to effect, administer, or enforce a transaction requested or authorized by the member or holder of capital, or in connection with:

(A) servicing or processing a financial product or service requested or authorized by the

member or holder of capital;

(B) maintaining or servicing an account of a member or holder of capital with the savings bank; or

(C) a proposed or actual securitization or secondary market sale (including sales of servicing rights) related to a transaction of a member or holder of capital.

Nothing in this item (14), however, authorizes the sale of the financial records or information of a member or holder of capital without the consent of the member or holder of capital.

(15) The exchange in the regular course of business of information between a savings bank and any commonly owned affiliate of the savings bank, subject to the provisions of the Financial Institutions Insurance Sales Law.

(16) The disclosure of financial records or information as necessary to protect against or prevent actual or potential fraud, unauthorized transactions, claims, or other liability.

(17) (a) The disclosure of financial records or information related to a private label credit program between a financial institution and a private label party in connection with that private label credit program. Such information is limited to outstanding balance, available credit, payment and performance and account history, product references, purchase information, and information related to the identity of the customer.

(b) (1) For purposes of this paragraph (17) of subsection (c) of Section 4013, a "private label credit program" means a credit program involving a financial institution and a private label party that is used by a customer of the financial institution and the private

label party primarily for payment for goods or services sold, manufactured, or distributed by a private label party.

(2) For purposes of this paragraph (17) of subsection (c) of Section 4013, a "private label party" means, with respect to a private label credit program, any of the following: a retailer, a merchant, a manufacturer, a trade group, or any such person's affiliate, subsidiary, member, agent, or service provider.

(d) A savings bank may not disclose to any person, except to the member or holder of capital or his duly authorized agent, any financial records relating to that member or shareholder of the savings bank unless:

(1) the member or shareholder has authorized disclosure to the person; or

(2) the financial records are disclosed in response to a lawful subpoena, summons, warrant, or court order that meets the requirements of subsection (e) of this Section.

(e) A savings bank shall disclose financial records under subsection (d) of this Section pursuant to a lawful subpoena, summons, warrant, or court order only after the savings bank mails a copy of the subpoena, summons, warrant, or court order to the person establishing the relationship with the savings bank, if living, and otherwise, his personal representative, if known, at his last known address by first class mail, postage prepaid, unless the savings bank is specifically prohibited from notifying the person by order of court.

(f) Any officer or employee of a savings bank who knowingly and willfully furnishes financial records in violation of this Section is guilty of a business offense and, upon conviction, shall be fined not more than \$1,000.

(g) Any person who knowingly and willfully induces or attempts to induce any officer or employee of a savings bank to disclose financial records in violation of this Section is guilty of a business offense and, upon conviction, shall be fined not more than \$1,000.

(h) If any member or shareholder desires to communicate with the other members or shareholders of the savings bank with reference to any question pending or to be presented at an annual or special meeting, the savings bank shall give that person, upon request, a statement of the approximate number of members or shareholders entitled to vote at the meeting and an estimate of the cost of preparing and mailing the communication. The requesting member shall submit the communication to the Commissioner who, upon finding it to be appropriate and truthful, shall direct that it be prepared and mailed to the members upon the requesting member's or shareholder's payment or adequate provision for payment of the expenses of preparation and mailing.

(i) A savings bank shall be reimbursed for costs that are necessary and that have been directly incurred in searching for, reproducing, or transporting books, papers, records, or other data of a customer required to be reproduced pursuant to a lawful subpoena, warrant, or court order.

(j) Notwithstanding the provisions of this Section, a savings bank may sell or otherwise make use of lists of customers' names and addresses. All other information regarding a customer's account are subject to the disclosure provisions of this Section. At the request of any customer, that customer's name and address shall be deleted from any list that is to be sold or used in any other manner beyond identification of the customer's accounts.

(Source: P.A. 91-929, eff. 12-15-00; 92-483, eff. 8-23-01; 92-543, eff. 6-12-02.)

(205 ILCS 205/9012) (from Ch. 17, par. 7309-12)

Sec. 9012. Disclosure of reports of examinations and confidential supervisory information; limitations.

(a) Any report of examination, visitation, or investigation prepared by the Commissioner under this Act, any report of examination, visitation, or investigation prepared by the state regulatory authority of another state that examines a branch of an Illinois State savings bank in that state, any document or record prepared or obtained in connection with or relating to any examination, visitation, or investigation, and any record prepared or obtained by the Commissioner to the extent that the record summarizes or contains information derived from any report, document, or record described in this subsection shall be deemed confidential supervisory information. "Confidential supervisory information" shall not include any information or record routinely prepared by a savings bank and maintained in the ordinary course of business or any information or record that is required to be made publicly available pursuant to State or federal law or rule. Confidential supervisory information shall be the property of the Commissioner and shall only be disclosed under the circumstances and for the purposes set forth in this Section.

The Commissioner may disclose confidential supervisory information only under the following circumstances:

(1) The Commissioner may furnish confidential supervisory information to federal and state depository institution regulators, or any official or examiner thereof duly accredited for the purpose. Nothing contained in this Act shall be construed to limit the obligation of any savings bank to comply with the requirements relative to examinations and reports nor to limit in any way the powers of the Commissioner relative to examinations and reports.

(2) The Commissioner may furnish confidential supervisory information to the United States or any agency thereof that to any extent has insured a savings bank's deposits, or any official or examiner thereof duly accredited for the purpose. Nothing contained in this Act shall be construed to limit the obligation relative to examinations and reports of any savings bank in which deposits are to any extent insured by the United States or any agency thereof nor to limit in any way the powers of the Commissioner with reference to examination and reports of the savings bank.

(3) The Commissioner may furnish confidential supervisory information to the appropriate law enforcement authorities when the Commissioner reasonably believes a savings bank, which the Commissioner has caused to be examined, has been a victim of a crime.

(4) The Commissioner may furnish confidential supervisory information related to a savings bank, which the Commissioner has caused to be examined, to the administrator of the Uniform Disposition of Unclaimed Property Act.

(5) The Commissioner may furnish confidential supervisory information relating to a savings bank, which the Commissioner has caused to be examined, relating to its performance of obligations under the Illinois Income Tax Act and the Illinois Estate and Generation-Skipping Transfer Tax Act to the Illinois Department of Revenue.

(6) The Commissioner may furnish confidential supervisory information relating to a savings bank, which the Commissioner has caused to be examined, under the federal Currency and Foreign Transactions Reporting Act, 31 United States Code, Section 1051 et seq.

(7) The Commissioner may furnish confidential supervisory information to any other agency or entity

that the Commissioner determines to have a legitimate regulatory interest.

(8) The Commissioner may furnish confidential supervisory information as otherwise permitted or required by this Act and may furnish confidential supervisory information under any other statute that by its terms or by regulations promulgated thereunder requires the disclosure of financial records other than by subpoena, summons, warrant, or court order.

(9) At the request of the affected savings bank, the Commissioner may furnish confidential supervisory information relating to the savings bank, which the Commissioner has caused to be examined, in connection with the obtaining of insurance coverage or the pursuit of an insurance claim for or on behalf of the savings bank; provided that, when possible, the Commissioner shall disclose only relevant information while maintaining the confidentiality of financial records not relevant to such insurance coverage or claim and, when appropriate, may delete identifying data relating to any person.

(10) The Commissioner may furnish a copy of a report of any examination performed by the Commissioner of the condition and affairs of any electronic data processing entity to the savings banks serviced by the electronic data processing entity.

(11) In addition to the foregoing circumstances, the Commissioner may, but is not required to, furnish confidential supervisory information under the same circumstances authorized for the savings bank pursuant to subsection (b) of this Section, except that the Commissioner shall provide confidential supervisory information under circumstances described in paragraph (3) of subsection (b) of this Section only upon the

request of the savings bank.

(b) A savings bank or its officers, agents, and employees may disclose confidential supervisory information only under the following circumstances:

(1) to the board of directors of the savings bank, as well as the president, vice-president, cashier, and other officers of the savings bank to whom the board of directors may delegate duties with respect to compliance with recommendations for action, and to the board of directors of a savings bank holding company that owns at least 80% of the outstanding stock of the savings bank or other financial institution.

(2) to attorneys for the savings bank and to a certified public accountant engaged by the savings bank to perform an independent audit; provided that the attorney or certified public accountant shall not permit the confidential supervisory information to be further disseminated.

(3) to any person who seeks to acquire a controlling interest in, or who seeks to merge with, the savings bank; provided that the person shall agree to be bound to respect the confidentiality of the confidential supervisory information and to not further disseminate the information other than to attorneys, certified public accountants, officers, agents, or employees of that person who likewise shall agree to be bound to respect the confidentiality of the confidential supervisory information and to not further disseminate the information.

(4) to the savings bank's insurance company, if the supervisory information contains information that is otherwise unavailable and is strictly necessary to obtaining insurance coverage or pursuing an insurance claim for or on behalf of the savings bank; provided

that, when possible, the savings bank shall disclose only information that is relevant to obtaining insurance coverage or pursuing an insurance claim, while maintaining the confidentiality of financial information pertaining to customers; and provided further that, when appropriate, the savings bank may delete identifying data relating to any person.

The disclosure of confidential supervisory information by a savings bank pursuant to this subsection (b) and the disclosure of information to the Commissioner or other regulatory agency in connection with any examination, visitation, or investigation shall not constitute a waiver of any legal privilege otherwise available to the savings bank with respect to the information.

(c) (1) Notwithstanding any other provision of this Act or any other law, confidential supervisory information shall be the property of the Commissioner and shall be privileged from disclosure to any person except as provided in this Section. No person in possession of confidential supervisory information may disclose that information for any reason or under any circumstances not specified in this Section without the prior authorization of the Commissioner. Any person upon whom a demand for production of confidential supervisory information is made, whether by subpoena, order, or other judicial or administrative process, must withhold production of the confidential supervisory information and must notify the Commissioner of the demand, at which time the Commissioner is authorized to intervene for the purpose of enforcing the limitations of this Section or seeking the withdrawal or termination of the attempt to compel production of the confidential supervisory information.

(2) Any request for discovery or disclosure of confidential supervisory information, whether by subpoena, order, or other judicial or administrative

process, shall be made to the Commissioner, and the Commissioner shall determine within 15 days whether to disclose the information pursuant to procedures and standards that the Commissioner shall establish by rule. If the Commissioner determines that such information will not be disclosed, the Commissioner's decision shall be subject to judicial review under the provisions of the Administrative Review Law, and venue shall be in either Sangamon County or Cook County.

(3) Any court order that compels disclosure of confidential supervisory information may be immediately appealed by the Commissioner, and the order shall be automatically stayed pending the outcome of the appeal.

(d) If any officer, agent, attorney, or employee of a savings bank knowingly and willfully furnishes confidential supervisory information in violation of this Section, the Commissioner may impose a civil monetary penalty up to \$1,000 for the violation against the officer, agent, attorney, or employee. Disclosure--of--examination--reports---and---other records.

(a)--Except---as---provided---in---subsection---(b)---the Commissioner may disclose information gathered by examination of--and--through--reports--from--a--savings--bank--only--to--the--board of--directors--of--the--savings--bank,--other--federal--and--state financial---services---regulators,--law---enforcement---or prosecutorial--agencies,--and--the--savings--bank's--independent licensed--public--accountants.

(e) (b) Subject to the limits of this Section, the Commissioner also may promulgate regulations to set procedures and standards for allow disclosure of other--than as--provided--in--subsection--(a),--but--only--for the following items:

(1) All fixed orders and opinions made in cases of appeals of the Commissioner's actions.

(2) Statements of policy and interpretations adopted by the Commissioner's office, but not otherwise made public.

(3) Nonconfidential portions of application files, including applications for new charters. The Commissioner shall specify by rule as to what part of the files are confidential.

(4) Quarterly reports of income, deposits, and financial condition.

(Source: P.A. 86-1213.)

Section 99. Effective date. This Act takes effect upon becoming law.